

§ 42.733 Enforcement procedures.

(a) *Voluntary compliance.* When a compliance review or complaint investigation results in a finding of probable noncompliance with this subpart, the Department shall attempt to obtain voluntary compliance. An agreement for voluntary compliance shall describe the corrective action to be taken and time limits for such action and shall be signed by the recipient and an authorized official of the Department.

(b) *Means of enforcement—(1) General.*

(i) The Department may seek to enforce this subpart—

(A) By administrative proceedings that may lead to termination or refusal of federal financial assistance to the particular program; or

(B) By any other means authorized by law. Such other means include lawsuits by the Department of enjoin violations of this subpart.

(ii) To the extent consistent with the Act, the Department, in enforcing this subpart, shall follow the procedures applicable to enforcement of title VI of the Civil Rights Act of 1964.

(2) *Termination of federal financial assistance.* With regard to enforcement of this subpart through the termination or refusal of federal financial assistance, the Department shall follow the provisions of its title VI regulation concerning notice (28 CFR 42.180(c)), hearings (28 CFR 42.109), and decisions (28 CFR 42.110). However, with respect to programs receiving federal financial assistance from a component of the Department's Office of Justice Programs (OJP), the requirement of 28 CFR 42.110(e) that a sanction be approved by the Attorney General shall not apply; that function may be performed by the Assistant Attorney General, OJP.

(3) *Other means of enforcement.* With regard to enforcement of this subpart through other means, the Department shall follow the procedures of 28 CFR 42.108(d). In addition, at least 30 days before commencing a lawsuit or taking other action pursuant to paragraph (b)(1)(i)(A) of this section, the Department shall send an appropriate report to the committees of the House of Representatives and the Senate having legislative jurisdiction over the program involved.

(c) *Deferral.* When a proceeding for the termination or refusal of federal financial assistance is initiated pursuant to paragraph (b)(1)(i)(A) of this section, the Department may defer granting new federal financial assistance to the recipient.

(1) New federal financial assistance includes any assistance for which, during the deferral period, the Department requires an application or approval, including renewal or continuation of existing activities or authorization of new activities. New federal financial assistance does not include assistance approved prior to initiation of the administrative proceeding or increases in funding as a result of a change in the manner of computing formula awards.

(2) A deferral may not begin until the recipient has received a notice of opportunity for a hearing. A deferral may not continue for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual consent of the recipient and the Department. A deferral may not continue for more than 30 days after the close of the hearing, unless the hearing results in a finding against the recipient.

§ 42.734 Alternative funding.

When assistance to a recipient is terminated or refused pursuant to § 42.733(b)(1)(i)(A), the Department may disburse the withheld funds directly to an alternate recipient serving the same area (i.e., a public or nonprofit private organization or agency or state or political subdivision of the state). Any such alternate recipient must demonstrate the ability to comply with the requirements of this subpart and to achieve the goals of the federal statute authorizing the assistance.

§ 42.735 Judicial review.

A final decision of the Department in an administrative proceeding pursuant to § 42.733(b)(1)(i)(A) is subject to judicial review as provided in section 306 of the Act, 42 U.S.C. 6105.

§ 42.736 Private lawsuits.

(a) Upon exhausting administrative remedies under the Act, a complainant